IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 300 of 2005

Shri Mangesh D. Mishal,
Resident of Ansabhat, Mapusa,
Bardez-Goa. ..... Petitioner

V/s

1. Smt. Henriqueta D'Souza,
resident of Noronhawado,
Siolim, Bardez-Goa.

2. The Administrative Tribunal,
Panaji - Goa.

3. The Collector,
North Goa, panaji - Goa.

4. The Joint Mamlatdar,
Bardez, Mapusa - Goa. .....
Respondents

Mr. Sudin Usgaokar, advocate for the petitioner.

Mr. J. P. Mulgaokar, advocate for the respondent no.1.

CORAM : R. M. LODHA, J.

DATE : 16th September, 2005.

ORAL JUDGMENT

Heard Mr. Sudin Usgaokar, the learned counsel for the petitioner and Mr. J. P. Mulgaokar, the learned counsel for the respondent no.1. Respondents no. 2 to 4 are not represented

before me and they are only formal parties.

2. Rule. Returnable forthwith. Mr. J. P. Mulgaokar waives service on behalf of the respondent no.1.

3. The Writ Petition is heard finally at this stage.

4. Having considered the impugned judgment passed by the Administrative Tribunal dated 29th October, 2004 I find that there was no justification for the Administrative Tribunal to remand the matter to the Mamlatdar of Bardez for fresh decision by recording a finding on the issue whether the mother of respondent no.1 was residing in the subject property as mundkar or not. The remand was not necessary, more so because the Tribunal observed that the Mamlatdar should decide the matter without recording further evidence. As a matter of fact, the learned counsel for respondent no.1 agreed and in my view rightly, that the Tribunal ought not to have remanded the matter to the Mamlatdar when no fresh evidence was to be taken.

5. I, accordingly, set aside the Order dated 29th October, 2004 and restore the Mundkar Revision Application No.39/1996 to the file of the Administrative Tribunal, Goa, Panaji-Goa, for deciding the said Mundkar Revision Application afresh in

accordance with law after hearing the parties uninfluenced by the impugned Order.

6. No costs.

7. Rule is disposed of accordingly.

R. M. LODHA, J.

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